



## **DIRECTOR'S REPORT AND RECOMMENDATION**

### **Proposed Land Use Code Amendments To Protect Trees On Undeveloped Land And To Provide For The Added Protection Of Trees During Development**

**April 30, 2001**

## **BACKGROUND**

There are many economic, aesthetic, and environmental reasons to protect trees. Trees add to property value, both residential and commercial. Trees are beautiful. They soften the edges and bring green into the urban setting. They can frame views and create feelings of relaxation and comfort. They can add tremendously to a neighborhood's quality of life. Trees provide huge environmental benefits. One acre of trees can remove approximately thirteen tons of dust and gases from the atmosphere each year. Trees help prevent soil erosion by slowing rainwater runoff and they filter and purify the water, ensuring cleaner streams and lakes. And, trees provide habitat for birds and animals.

An American Forests study indicated that areas with high vegetation and tree canopy cover comprised 10% of the city's area in 1972, but only covered 5% of the city in 1996. Conversely, areas with low tree cover comprised 81% of Seattle in 1972 and increased to 92% of the city in 1996.

The City has been working on the issue of protecting trees on private property, especially on sites undergoing development, for several years now. The focus of the current proposal is to protect really important trees: "heritage trees" that are important community resources because of their unique historical, ecological, or aesthetic value.

## **Purpose of Proposal**

The purpose of this proposal is for the City to improve the way it protects trees on private property especially when development occurs. The goals of the proposal are to:

- Retain as many of Seattle's really significant trees and retain (and expand) as much of Seattle's urban forest on land undergoing development as is compatible with other City objectives
- Allow development to occur, including affordable housing
- Minimize permitting delays and additional costs

## **History Of City Effort To Protect Trees On Property Undergoing Development**

**Comprehensive Plan and 1999 Legislation.** In 1997 the Seattle City Council added Tree Preservation and Enhancement goals and policies to the Seattle Comprehensive Plan including a policy to encourage the preservation and maintenance of existing healthy tree cover in areas undergoing development.

The following reports were published:

- Protecting the Urban Forest in Areas Undergoing Development, Seattle Strategic Planning Office, March 1998
- Improving Tree Protection During Regulation of Property Development, Seattle Strategic Planning Office and Urban Forest Work Group, February 1999

In 1999 the City Council adopted new Land Use Code regulations that included the following:

- New landscaping (tree planting and/or retention) requirements for Single Family, LDT, L1, and L2 zones
- Subdivision and short plat applications required to include the specific location and description of all trees at least 6" inches or more in diameter; criteria for approval now include a determination that the short plat or subdivision is designed to maximize the retention of existing trees
- Flexibility in location of single family, lowrise, and midrise structures to protect trees
- Design review requirement to identify trees 6" or more in diameter on the drawing of existing site conditions.

**2000 Work Program** The City Council asked that the following issues be looked at in the year 2000:

- Provide greater flexibility in Design Review to protect trees
- Protect important trees on projects that don't go through SEPA
- Evaluate options for including remodeling projects under the new (1999) landscaping requirements.

The Council asked that a Work Group, first convened in 1998, be reconvened to look at these issues. The Work Group is composed of people who are active in the preservation

of trees throughout the city, people concerned with the ability to conduct business in the city, construction industry representatives, and conservationists. In 2000, neighborhood representatives were added to the group.

The Work Group asked the Department of Design, Construction and Land Use to prepare options for additional regulations to protect trees during development. The Work Group has commented on these options but has not attempted to reach consensus. In order to promote public discussion, DCLU prepared a proposal, with options noted, that was discussed at a public meeting held on August 15, 2000.

Following this meeting it became apparent that more work would need to be done to craft a proposal that was able to meet the goals noted above. A focus group was created to help refine a revised proposal. A joint meeting was also held between the original Work Group and the new focus group. Following these meetings, DCLU formulated a new proposal that was the subject of four February 2001 public meetings. These meetings provided additional public comment prior to submitting this final recommendation to the City Council.

## **DCLU RECOMMENDATION**

DCLU is recommending that three items be implemented to achieve the objective of better tree protection:

1. Amendments to the Seattle Municipal Code to protect trees on undeveloped land and to provide for the added protection of trees during the development process. (See discussion, below. The proposed ordinance is presented in Attachment A.)
2. A Director's Rule to establish procedures and criteria for the identification and designation of heritage trees. If the Municipal Code amendments are adopted by the Council, this Director's Rule would be adopted administratively by DCLU, following the usual procedure. A draft of the Director's Rule is included in Attachment B.
3. Amendments to the citywide Design Review Guidelines intended to clarify how and when design departures, such as increased height in lowrise zones, might be granted in order to protect trees. These amendments will not be formally prepared until later in the year and would be adopted along with other changes to the citywide guidelines. An example of what these guidelines might look like is presented in Attachment C.

## MUNICIPAL CODE AMENDMENTS

There are two main aspects of the proposed amendments to the Seattle Municipal Code: 1) to restrict the removal of trees on undeveloped land, and 2) to promote additional tree protection on sites undergoing development. As noted, the proposal focuses on really important trees, what we propose to label as “heritage trees.”

### Citywide Restrictions on Tree Cutting

The main purpose of these new restrictions on removing trees on undeveloped land is to ensure that the trees are not removed before development review even begins. Even though the 1999 amendments to the Municipal Code added provisions to protect trees during development (in short plat/subdivisions and design review, for example) there is nothing in the code currently preventing the cutting down of trees on a property before this development review takes place.

**All trees over 6” in diameter:** Removal would be prohibited on undeveloped land unless it is a hazardous tree or if it is in conjunction with development. There would be no restriction on removing these trees on property that is already developed.

**Heritage Trees:** Removal would be prohibited on undeveloped land or on property that contains a single family house in a zone other than single family, unless it is a hazardous tree. (The reason for the single family home in a more intensive zone provision, is to prevent the removal of a heritage tree in such a situation prior to the application for a permit to redevelop the property.) If it is in conjunction with development, the tree may be removed only after an attempt is made to save the tree through modifications of the development standards of specific zones; see below.

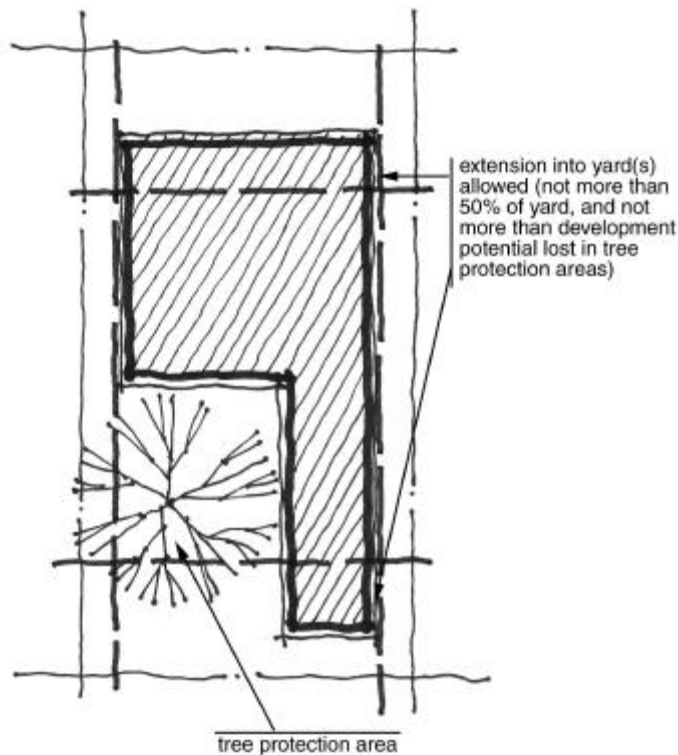
## Regulations for Sites Undergoing Development

The basic approach is to establish a tree protection area within which no development should occur in order to protect the tree. By staying outside of this area a development might lose some development potential. The basic approach is to allow this lost development potential to be regained by modifying some of the development standards that apply in various zones.

**Single Family and Residential Small Lot Zones.** A single family lot's development potential is defined as 35% of the lot area or 1,750 square feet, whichever is greater.

The house (up to its "development potential") must be designed to avoid the heritage tree's protection area. If this cannot be done without extending into required front and/or rear yards, then such extension is permitted. The maximum yard reduction is 50%; the maximum extension is also limited to an area equal to the tree protection area not located within required yards. Also, tree removal is permitted if avoiding development in the tree protection area would result in a portion of the house being less than 15 feet in width. See Figure 1.

**FIGURE 1**

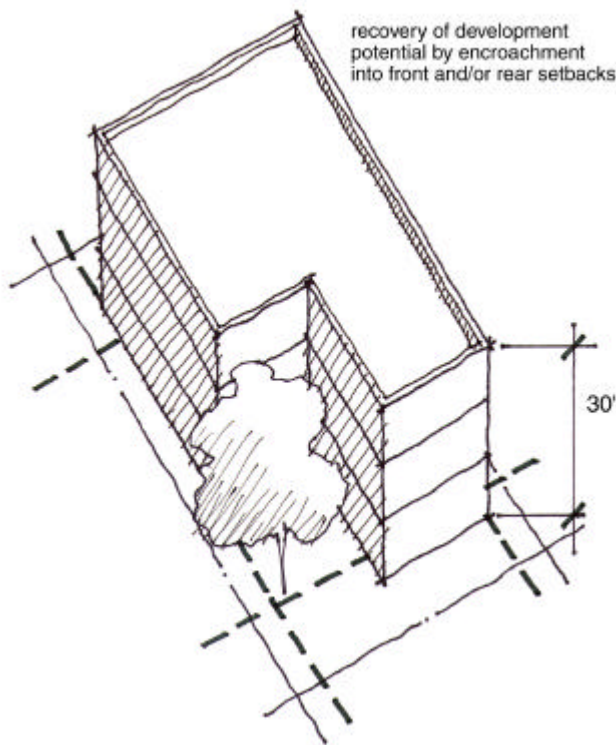


**Lowrise Duplex/Triplex, Lowrise 1, Lowrise 2, and Lowrise 3 Zones.** A site's development potential in these zones is the total floor area that could be achieved with the maximum permitted development coverage and the height limit of the applicable lowrise zone.

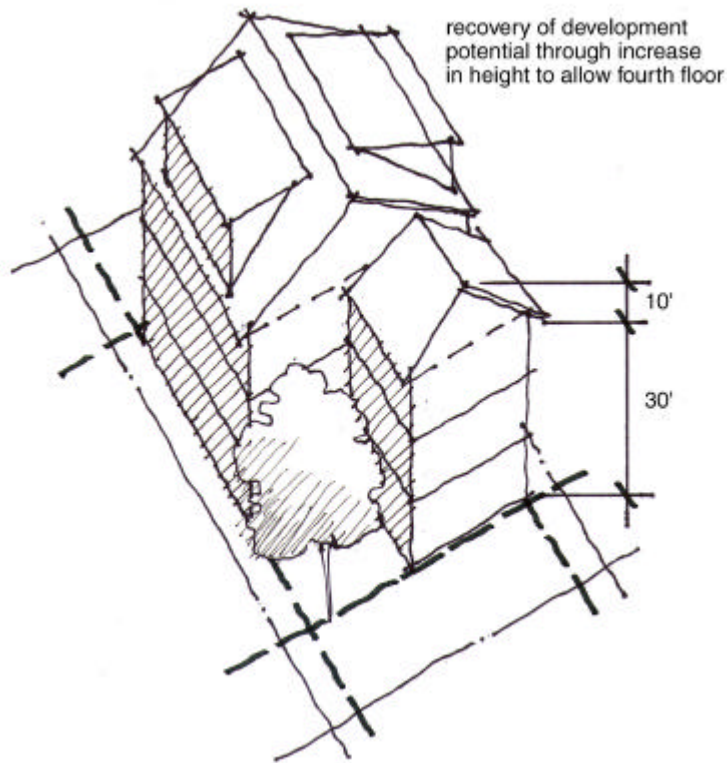
All development on sites with heritage trees must go through design review. The development (up to its "development potential") must be designed to avoid the tree protection area using one or more of the following methods:

- Development standard departures through design review including extensions into required setbacks. **See Figure 2.**
- Increase in permitted height of five feet if needed to accommodate additional development on an additional floor. The amount of additional floor area is limited to the amount of floor area lost by avoiding development within the tree protection area. **See Figure 3.**
- Reduction in number of required parking spaces (up to a 10% reduction).

**FIGURE 2**



**FIGURE 3**



**Lowrise 4, Midrise, and Commercial Zones.** A heritage tree may be removed only if avoiding development in the tree protection area could not be achieved by the usual development standard departures through design review and/or up to a 10% reduction in required parking spaces.

**Trees over 2 feet in diameter (measured 4.5 feet above the ground)**

In all residential and commercial zones, an applicant has the option to modify their development proposal to protect these trees in the same manner as provided for heritage trees.

**Tree Replacement**

Replacement is required for each heritage tree and tree over two feet in diameter that is removed in association with development in all zones. One or more new trees may be required with an objective that the new trees would result, upon maturity, in a canopy cover that is at least equal to the canopy cover prior to tree removal. Preference is to be given to on-site replacement.

## **Deletion of Sections of Existing Land Use Code**

Three sections in the Seattle Municipal Code that were adopted in 1999 would be deleted. These sections established a procedure where an applicant could chose to request a reduction in yard or setback requirements to protect trees over 6 inches in diameter in single family, lowrise, and midrise zones. These sections are proposed to be deleted because no project has taken advantage of this option; and it would be confusing to have these sections remain along with the new approach recommended by the proposal.

## **OPTIONS**

Over the past several years many options to deal with this issue have been considered and discussed at work group and focus group meetings, at public meetings, and at the City Council. The reports noted above discussed many options. The following section of this Director's Report will only highlight some of the options that have been considered and that could be considered as the City Council deliberates on this issue. It also discusses some of the pros and cons of the current proposal.

### **Tree Removal On Property Not Undergoing Development**

**1. Tree cutting restrictions on undeveloped land.** One option to the proposed prohibition on tree removal on vacant land would be, of course, to not institute this restriction. The restriction will likely result in DCLU enforcement actions entailing additional administrative costs to DCLU. However, without these restrictions there is nothing preventing removal of trees prior to development review, thus obviating the objectives of the additional provisions for tree protection on sites undergoing development.

**2. Less strict restrictions on tree removal on undeveloped land.** An option to the proposal would be to allow removal of one or two trees a year on each undeveloped lot. However, this would entail an extensive administrative process to keep track of the number of trees removed on each lot, each year. Another option would be to allow tree removal on undeveloped land in order to create views. Some jurisdictions allow this, but it also could entail extensive administrative review, and perhaps determinations concerning what was more important, establishing or regaining views or tree retention. Our recommendation, is to not get the City involved in this controversial issue of views. In any case, even under the proposal, it would be possible to create "view windows" by selective pruning as long as this was not so damaging to the tree that it would eventually die.

**3. More complex definition of "undeveloped" land.** The proposal would not regulate tree removal on developed land. An exception would be for heritage trees on lots with a single family house that is zoned other than single family. As noted, this is an attempt to deal with a situation where redevelopment is possible. An option would be to develop a rather complex definition of "undeveloped land" (rather than just "a lot with no building



or structure”). For example, what about a ten thousand square foot lot with one house in a single family zone? -- all the trees on half of the lot could be removed prior to submitting a permit application for a short plat. Or what about a large commercially zoned property with a small, low value structure on it? It was felt that the “catching” of these situations would entail the development of a rather complex definition of developed vs. undeveloped property; such an approach could be very cumbersome and would likely result in many administrative problems. It probably is not justified to “catch” the relatively few cases which the current proposal would miss.

**4. Removal of heritage trees on all developed land (including on lots with single family homes in single family zones).** A previous proposal would have prohibited such removal. Such a prohibition would reflect the value that these heritage trees represent. However, this proposed prohibition on removing heritage trees in people’s backyards was the one that received the most negative comments at the February 2000 meetings. We also believe that, in the great majority of cases, these trees in people’s backyards will be retained because of the value (economic and aesthetic) that they represent to the homeowner; additional regulations that would impinge on an owner of an existing home should be avoided unless it is truly needed.

#### **Types Of Trees Covered By The Regulations; Definition Of Heritage Trees And Tree Protection Area**

**5. More encompassing regulations that would address more trees.** As noted, the current proposal focuses on really special trees, what we have labeled as “heritage trees.” For native trees in Seattle it is estimated that there are probably less than one hundred that would qualify as heritage trees. It is not known how many non-native trees would qualify, but probably a slightly larger number. The definition of heritage trees could be modified to incorporate more trees. Another option would be to require building standard modifications (not just provide for voluntary tree protection) to protect two foot diameter trees as is proposed for heritage trees. Or there could be a requirement to protect all trees (over six or eight inches in diameter) of specific species that are valued in the Pacific Northwest (for example, species rating 60% or more on the International Society of Arboriculture Pacific Northwest Chapter’s Species Evaluation List). There could be a stipulation that all efforts be made to retain these trees outside of building footprints.

**6. Simpler standards for heritage tree identification.** The present proposal is based on a rigorous investigation concerning the size and extent of existing trees in Seattle, especially native trees. (Native Seattle Trees and their Status, Arthur Lee Jacobson, January 2001.) This investigation focused on the appropriate threshold for determining “heritage trees” -- trees that are so important that building design should be modified in order to protect them. As presented in the draft Director’s Rule (Attachment B), a somewhat complex process would be established to delineate these trees. An option would be to have a much simpler definition; for example, “all trees over 3 feet in diameter.” While this would be much easier to administer it would completely ignore differences in the relative value and rarity of species. Also, only taking the size of the tree’s diameter into consideration (rather than using it as a “threshold” for analysis as

called for in our proposal) ignores other important factors such as the tree's height and canopy cover, its general health, its chance for survival following construction, etc.

**7. Simpler definition of "tree protection area".** The proposal would permit, after review by a tree care professional, buildings to intrude into the outer half of the area within the drip line of the tree, up to a maximum of one-third of this outer area. (See Exhibit 25.11.050 B of the proposed ordinance in Attachment A). A simpler approach from an administrative standpoint would be to just prohibit intrusion within the drip line. However, this over simplification could result in trees being removed unnecessarily; in many cases trees could be saved and development could occur even if such intrusion were allowed as long as tree protection measures during construction were carried out.

### **Specific Provisions Of Proposal For Sites Undergoing Development**

**8. Expansion/remodel of existing homes.** As noted above, the City Council requested that we look at the option of subjecting home remodels to the 1999 requirements for tree planting/retention. This issue was discussed by the Work Group but DCLU recommends that this not be instituted. It would entail an additional administrative burden since we receive a great many applications for remodeling and/or expansion; a specific threshold would have to be established so that very minor remodels were not included. It is just more efficient and effective if we focus on new development. And if a house is to be demolished and replaced with a bigger house or a more intense development (in zones other than single family) they would be subject to the tree planting requirements. In general, DCLU and the work group believed that a more productive approach would be a more comprehensive improvement in our tree protection regulations, and this has resulted in the present proposal. As noted above, we believe that most home owners will value existing trees on their lot and attempt to avoid removing trees whenever possible.

**9. Specific numerical standards for protection of trees during development.** Some of the options that have been considered in the past have included establishing a requirement that a certain percentage of trees (over 6" diameter) be retained after development; for example, 35% of the trees on a site. One of the options proposed in summer 2000 was a similar requirement but focussed on a percentage (for example, 20%) of the lot that should retain, or be planted to achieve, tree canopy cover. There was considerable opposition voiced to this proposal, focussing on the argument that home owners should be allowed to choose how much of their land should have tree canopy cover. We decided that we should focus on heritage tree protection instead as the most important aspect of tree protection.

**10. Modification of height standards in lowrise zones.** An option to the proposal would be to not include the provision for a 5 foot height increase in Lowrise Duplex/Triplex, Lowrise 1, 2, and 3 zones. The proposal's concept is that this would provide for a moderate increase in height to regain the development potential lost by staying outside of the tree protection area. However, height limits are of great concern to many neighborhood residents, and this could lead to larger buildings in lowrise zones, perhaps leading to view reduction and height/bulk/scale impacts. Yet there will be very

few cases where trees are determined to be heritage trees. There may be more cases where an applicant chooses to try to protect trees over two feet in diameter. However, the proposal stipulates that these projects must go through design review, so neighborhood sentiment would be heard. (See possible design guidance in Attachment C which includes consideration of private view protection.) Flexibility in design to protect trees was a common theme expressed by members of the work group. And people have said, “let the neighborhood decide if protecting a tree is worth this trade-off.”

**11. Modification of parking standards in multifamily and commercial zones.** As with the modification of height standards, an option would be to not include the parking reduction provision in the proposal. Provision of adequate off-street parking is also an important concern of neighborhood residents. We believe that any negative impacts would be minor since the maximum reduction would be limited to 10%. And we included this provision in the proposal since in larger multifamily and commercial development it may be very difficult to protect trees especially where the zoning provisions allow lot line to lot line parking, and where excavation of the entire site is often needed to meet parking requirements. This reduction is not guaranteed to save trees but may be enough to avoid providing parking in tree protection areas in some cases where trees are located near the edge of the property. Another option would be to only allow this provision in certain areas where existing on-street parking is adequate, or in areas where there is excellent transit service.

**12. Removal 1999 Sections of the Code that provided for 5 foot yard/setback reduction (larger reductions through an exception process) to protect trees over 6 inches in diameter.** We propose to eliminate these sections because it would be confusing to retain these sections along with the current proposal. Also, no one has taken advantage of these provisions to date. An alternative would be to retain these provisions. This would give an applicant the option of “moving” the footprint of the house in order to protect smaller trees.

## **SEPA REVIEW AND ADMINISTRATIVE/FINANCIAL IMPLICATIONS**

DCLU is currently in the process of conducting SEPA review on this proposal. As noted in this report, the proposal would result in some additional administrative burden on the part of DCLU. The extent of this burden and any financial implications will be discussed in a Fiscal Note, also currently being prepared.